

1                                   **BEFORE THE ARIZONA CORPORATION COMMISSION**

2                                   **COMMISSIONERS**

3                                   MARC SPITZER, Chairman  
4                                   WILLIAM A. MUNDELL  
5                                   JEFF HATCH-MILLER  
6                                   MIKE GLEASON  
7                                   KRISTIN K. MAYES

In the matter of:	)	DOCKET NO. S-03500A-04-0000
	)	
JAMES L. OPPENHEIMER, AND SYDNEY J.	)	<b>NOTICE OF OPPORTUNITY FOR</b>
OPPENHEIMER, husband and wife,	)	<b>HEARING REGARDING PROPOSED</b>
695 W. Bear Claw Lane	)	<b>ORDER TO CEASE AND DESIST,</b>
Pinetop, AZ 85935	)	<b>ORDER FOR RESTITUTION, FOR</b>
Respondents.	)	<b>ADMINISTRATIVE PENALTIES, AND</b>
	)	<b>FOR OTHER AFFIRMATIVE ACTION</b>

10                                   **NOTICE: EACH RESPONDENT HAS 10 DAYS TO REQUEST A HEARING**  
11                                   **EACH RESPONDENT HAS 30 DAYS TO FILE AN ANSWER**

12                                   The Securities Division ("Division") of the Arizona Corporation Commission  
13 ("Commission") alleges that RESPONDENTS engaged in acts, practices and transactions, which  
14 constitute violations of the Securities Act of Arizona, A.R.S. § 44-1801 *et seq.* ("Securities Act").  
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16                                   **I.**  
17                                   **JURISDICTION**

18                                   1. The Commission has jurisdiction over this matter pursuant to Article XV of the Arizona  
19 Constitution, and the Securities Act.

20                                   **II.**  
21                                   **RESPONDENTS**

22                                   2. JOHN L. OPPENHEIMER, ("RESPONDENT"), resides at 695 W. Bear Claw Lane,  
23 Pinetop, AZ 85935.

24                                   3. SYDNEY J. OPPENHEIMER was at all relevant times the spouse of JOHN L.  
25 OPPENHEIMER. SYDNEY J. OPPENHEIMER is joined in this action under A.R.S. § 44-  
26 2031(C) solely for purposes of determining the liability of the marital community.

1 4. At all times relevant, JOHN L. OPPENHEIMER was acting for his own benefit, and for  
2 the benefit or in furtherance of the marital community of John and Sydney Oppenheimer.

3 5. JOHN L. AND SYDNEY J. OPPENHEIMER may be collectively referred to as  
4 "RESPONDENTS." SYDNEY J. OPPENHEIMER may be referred to as "RESPONDENT  
5 SPOUSE."

6 **III.**

7 **FACTS**

8 6. In March 1999, RESPONDENT entered into a "Sales Agency Agreement" (the  
9 "Agreement") with Mutual Benefits Corporation ("MBC"), a viatical company located at 2881 E.  
10 Oakland Park Blvd., Suite 200, Ft. Lauderdale, Florida 33306, to sell MBC's products consisting  
11 of viatical and senior or life settlement contracts. The Agreement provided for commission  
12 payments ranging from 5-10% on each sale.

13 7. Between April 1999 and April 2001, RESPONDENT offered for sale and sold twelve  
14 MBC viatical settlement contracts to six Arizona investors for a total investment of approximately  
15 \$217,573. MBC paid RESPONDENT \$15,410.11 in commissions for these Arizona sales.

16 8. The viatical settlement contracts sold by RESPONDENT were not registered under the  
17 Securities Act nor were they exempt from registration.

18 9. RESPONDENT was, at all relevant times, a registered securities salesman, NASD Central  
19 Registration Depository ("CRD") #353135, in association with securities dealer Franklin Financial  
20 Services Corporation ("FFSC"), NASD CRD #5435.

21 10. FFSC's selling away policies required its representatives to disclose to and receive  
22 authorization from FFSC to engage in outside business activities and private securities  
23 transactions.

24 11. FFSC policies specifically prohibited its representatives from selling viatical settlement  
25 contracts.

1 12. RESPONDENT never disclosed to FFSC his association with MBC or that he was offering  
2 for sale and selling viatical settlement contracts.

3 13. On June 27, 2002, FFSC permitted RESPONDENT to resign for violating FFSC's selling  
4 away policies and for selling viatical settlement contracts.

5 **IV.**

6 **VIOLATION OF A.R.S. § 44-1841**

7 **(Offer or Sale of Unregistered Securities)**

8 14. From on or about April, 1999, RESPONDENT offered or sold securities in the form of  
9 viatical settlement contracts, within or from Arizona.

10 15. The securities referred to above were not registered pursuant to the provisions of Articles 6  
11 or 7 of the Securities Act.N:\ENFORCE\CASES\Oppenheimer.ph\PLEADING\Notice of  
12 Opportunity Oppenheimer.doc

13 16. This conduct violates A.R.S. § 44-1841.

14  
15 **V.**

16 **REQUESTED RELIEF**

17 The Division requests that the Commission grant the following relief against  
18 RESPONDENTS:

19 1. Order RESPONDENT to permanently cease and desist from violating the Securities  
20 Act, pursuant to A.R.S. § 44-2032;

21 2. Order RESPONDENT to take affirmative action to correct the conditions resulting  
22 from his acts, practices or transactions, including a requirement to pay restitution in the amount of  
23 \$217,573.00, pursuant to A.R.S. § 44-2032;

1                   3.       Order RESPONDENT to pay the state of Arizona administrative penalties of up to  
2       five thousand dollars (\$5,000) for each violation of the Securities Act, pursuant to A.R.S. § 44-  
3       2036;

4                   4.       Order that the marital communities of JOHN L. OPPENHEIMER, and SYDNEY J.  
5   OPPENHEIMER be subject to any order of restitution, rescission, administrative penalties, or  
6   other appropriate affirmative action pursuant to A.R.S. § 25-215; and

7            5.       Order any other relief that the Commission deems appropriate.

## VI.

## HEARING OPPORTUNITY

RESPONDENT including RESPONDENT SPOUSE may request a hearing pursuant to A.R.S. § 44-1972 and A.A.C. R14-4-306. **If any RESPONDENT requests a hearing, the RESPONDENT must also answer this Notice.** A request for hearing must be in writing and received by the Commission within 10 business days after service of this Notice of Opportunity for Hearing. Each RESPONDENT must deliver or mail the request to Docket Control, Arizona Corporation Commission, 1200 W. Washington, Phoenix, Arizona 85007. A Docket Control cover sheet must accompany the request. A cover sheet form and instructions may be obtained from Docket Control by calling (602) 542-3477 or on the Commission's Internet web site at [www.cc.state.az.us/utility/forms/index.htm](http://www.cc.state.az.us/utility/forms/index.htm).

20 If a request for a hearing is timely made, the Commission shall schedule the hearing to begin  
21 20 to 60 days from the receipt of the request unless otherwise provided by law, stipulated by the  
22 parties, or ordered by the Commission. If a request for a hearing is not timely made, the  
23 Commission may, without a hearing, enter an order against each RESPONDENT granting the relief  
24 requested by the Division in this Notice of Opportunity for Hearing.



The officer presiding over the hearing may grant relief from the requirement to file an Answer for good cause shown.

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Matthew Neubert  
Director of Securities

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